

Patent App. Ser. No. 10/768,728
Eclipse Group Docket No. INM08007USU

REMARKS

Claims 13-17 and 20 are pending in this present application. In the June 6, 2008 Non-Final Office Action, the Examiner:

1. Rejected claims 13 and 14 under 35 U.S.C §103(a) as being unpatentable over Pieronne et al. (U.S. Patent No. 4,662,355) in view of Leschinsky et al. (U.S. Patent No. 5,439,448) and further in view of Rawles et al. (U.S. Patent No. 6,890,316);
2. Rejected claims 15 and 20 under 35 U.S.C. §103(a) as being unpatentable over Pieronne et al. (U.S. Patent No. 4,662,355) in view of Leschinsky et al. (U.S. Patent No. 5,439,448) in view of Rawles et al. (U.S. Patent No. 6,890,316) hereinafter "Modified Pieronne") and further in view of Aboul-Hosn et al. (U.S. Patent No. 6,935,344).
3. Rejected claim 16 under 35 U.S.C. §103(a) as being unpatentable over Pieronne et al. (U.S. Patent No. 4,662,355) in view of Leschinsky et al. (U.S. Patent No. 5,439,448) in view of Rawles et al. (U.S. Patent No. 6,890,316) hereinafter "Modified Pieronne") as applied to claim 13 above, and further in view of Runge (U.S. Patent No. 5,743,845).
4. Rejected claim 17 under 35 U.S.C. §103(a) as being unpatentable over Pieronne et al. (U.S. Patent No. 4,662,355) in view of Leschinsky et al. (U.S. Patent No. 5,439,448) in view of Rawles et al. (U.S. Patent No. 6,890,316) and Runge (U.S. Patent No. 5,743,845) as applied to claim 16 above, and further in view of Aboul-Hosn et al. (U.S. Patent No. 6,935,344).

Claims 13-17 and 20 presently stand rejected. Applicants traverse. Reconsideration of the pending claims is respectfully requested.

I. REJECTION OF CLAIMS 13-17 AND 20 UNDER 35 U.S.C. § 103(a)

A. Claims 13 and 14 are not obvious over Pieronne in view of Leschinsky, and further in view of Rawles

Claims 13 and 14 are rejected under 35 U.S.C §103(a) as being unpatentable over Pieronne et al. (U.S. Patent No. 4,662,355) in view of Leschinsky et al. (U.S. Patent No. 5,439,448) and further in view of Rawles et al. (U.S. Patent No. 6,890,316). Applicants

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respectfully submit that the Examiner's rejections are based on an erroneous analysis of the teachings of the asserted references.

First, Pieronne does not teach priming the shunt. Pieronne teaches "[m]eans connected to the bubble detector 6 of the left system circuit for stopping the pump 7 should bubbles be detected." See Pieronne, 3:12-14. That is: Pieronne teaches stopping the pump if bubbles are detected. Pieronne teaches using air purges in conjunction with input ports for injecting products such as heparine and protamine into the blood circuit. Pieronne does not teach any steps for attaching the blood circuit to the patient nor any steps for priming the blood circuit. The Examiner argued that the use of "air purges" to prime the blood circuit is inherent in Pieronne. Pieronne does not teach priming the blood circuit and instead describes operation of the blood circuit already being attached to the patient. Nothing in Pieronne indicates that the air purges are used in priming the blood circuit except Applicant's specification, which is impermissible hindsight analysis. Pieronne does not teach priming the shunt.

Second, Rawles does not teach "priming ... the shunt with the patient's own blood to remove air." Rawles states:

In the case where the perfusionist desires to use the patient's own blood to prime the blood handling system comprising the tubing set and integrated blood pump/oxygenator of the aforementioned patent application, the blood handling system 40 is still initially primed with saline until all air bubbles are removed from all lines and the integrated blood pump/oxygenator 41.

Rawles, 9:15-21. Rawles does not teach priming the blood handling system "with the patient's own blood" as recited in claim 13. Rawles teaches that the blood handling system is initially primed with saline. The saline removes "all air bubbles." The saline is displaced by the patient's blood and directed to a bag once the blood pump is coupled to the cannulae. See Rawles 9:22-27.

Neither Pieronne nor Rawles teaches "priming the shunt with the patient's own blood to remove air." Claim 13 is allowable. The Examiner's rejections should be withdrawn.

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B. Claims 15 and 20 are not obvious over Pieronne in view of Leschinsky, and in view of Rawles and further in view of Aboul-Hosn

Claims 15 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pieronne et al. (U.S. Patent No. 4,662,355) in view of Leschinsky et al. (U.S. Patent No. 5,439,448) in view of Rawles et al. (U.S. Patent No. 6,890,316) hereinafter “Modified Pieronne”) and further in view of Aboul-Hosn et al. (U.S. Patent No. 6,935,344).

Claim 20 is allowable for the same reasons as claim 13 above. The Examiner’s rejections should be withdrawn.

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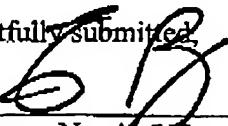
II. CONCLUSION

Favorable consideration is respectfully requested in view of the foregoing amendments and remarks.

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Respectfully submitted,


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